

Comments

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

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January 12, 1999

Superintendent
Death Valley National Park
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Dear Superintendent:

The Department of Fish and Game (Department) has reviewed the document entitled "Draft General Management Plan/Environmental Impact Statement Death Valley National Park California and Nevada" (DEIS). The DEIS presents the proposed management approach and two alternatives for the management of Death Valley National Park (Park). The proposed action seeks to extend the existing management strategies from the 1989 General Management Plan (GMP) for the previous National Monument, and the National Park Service (NPS) mission and policies, to the management of the resources within the new lands added to the unit in 1994 by the California Desert Protection Act (CDPA). It also incorporates the designation of 95% of the Park as wilderness into the management strategy and addresses the removal of feral animals from the Park. This alternative considers grazing and mining as components of the management as compelled by the CDPA, identifies plans needed to address site specific issues, and seeks funding for the purchase of private property from willing sellers.

Two other alternatives presented in this document include the existing management (No Action), and an optional management approach. Under existing management no changes in recreation use would occur, visitor and support services would be maintained, and other activities would remain at status quo. The optional alternative provides for approval of the use of airstrips at Saline Valley Warm Springs, designating campsites at Warm Springs, and specifies acquisition of private land or mineral interests only in sensitive habitats, and phases out the concession at Stovepipe Wells.

General comments:

The Department's comments pertain to those species found within the Park within the State of California.

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The goals of the Proposed Action, Alternative 1, are mostly appropriate and consistent with the CDPA. The purpose and need for the proposed action are expressed as the preparation of a General Management Plan for Death Valley National Park, within the constraints imposed by Congress in the CDPA and NPS policy.

CDFG1

However, the range of alternatives given is too narrow to meet the requirements of NEPA Regulations as outlined in 40 CFR 1502.14. The Department believes that additional actions to better enhance and protect fish, wildlife, and plant resources of the Park, and meet NPS policy and Congressional intent, should be included as alternatives.

CDFG2

The DEIS fails to identify the environmentally preferable alternative. 40 CFR 1505.2(b) states that the Record of Decision must specify the environmentally preferable alternative. In order for the public to adequately review and comment on the proposed project, the environmentally preferable alternative should be identified in the DEIS as well.

CDFG3

The description and analysis of the three alternatives do not offer sufficient detail to allow a complete comparison, and appear too weak to achieve their stated purpose. 40 CFR 1502.14 requires that all alternatives be rigorously explored and objectively evaluated, and that substantial treatment shall be devoted to each

CDFG4

alternative considered in detail. The Affected Environment and Environmental Consequences sections of the DEIS are weak and lack information and documentation for several conclusions drawn. Appendices should be included which substantiate any analysis (40 CFR 1502.18). The Environmental Consequences section of an EIS forms the scientific and analytic basis for comparison of alternatives (40 CFR 1502.16). The Environmental Consequences section of the subject DEIS does not contain scientific analysis sufficient for comparing alternatives.

The DEIS lacks information required for sufficient analysis. 40 CFR 1502.22 requires that if the information is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the EIS or state that the information is unavailable and summarize existing credible scientific evidence which is relevant to evaluating the impact. 40 CFR 1502.24 also requires that agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in EISs. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.

CDFG5

No mitigation measures are offered to offset any negative impacts associated with implementing the proposed plan. NEPA Regulations define five categories of mitigation (40 CFR 1508.20). Mitigation measures such as "Consult with...", "Conduct further studies...", "Prepare a plan to mitigate...", "Strive to protect the resource...", and "Monitor the problem..." are paper mitigation measures that do not solve environmental problems, and are considered inadequate under NEPA.

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CDFG1. Extensive public meetings, interagency coordination, and numerous meetings with the Death Valley Advisory Commission yielded the alternatives presented in the draft plan. The stated planning objective throughout the scoping and alternative development phases was to develop a general management plan for Death Valley that met the intent of Congress, was consistent with agency guidelines for general management plan content and scope, and was implementable. It was not the intent to craft an array of management alternatives that violate congressional intent and required legislation before they could be implemented. Mandates from the California Desert Protection Act, existing laws, policies, and regulations restrict the range of alternatives with this objective in mind. The planning effort explored the traditional theme alternative approach (i.e. visitor use emphasis, resource protection emphasis, etc.) and decided that approach was not consistent with public input received during scoping. The general feeling during scoping was the public was satisfied with the management of the old monument and was not interested in new visitor use developments. Therefore, we believe the range of alternatives is appropriate given these considerations.

In addition, the Environmental Protection Agency, the federal agency responsible for overseeing the National Environmental Policy Act (NEPA) reviewed the draft plan and had no objections to the plan and commended the Park Service for developing a quality management plan for the Park.

CDFG2. The Council on Environmental Quality (CEQ) and NPS guidelines on implementing NEPA suggest that the preferred alternative may be identified in the draft plan, but if the agency has no preferred alternative at that time it does not have to be identified. It has to be identified in the final plan. The draft plan did identify the agency proposed action, but that does not necessarily represent the preferred alternative. The council requires that the "environmentally" preferred alternative be identified in the record of decision.

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These comments also incorporate by reference our comments of June 22, 1988 and January 26, 1989, on the Draft and Final EIS, respectively, for the General Management Plan for Death Valley National Monument. The Department had significant concern at the time regarding the impacts of the 1989 GMP on the bighorn sheep populations within the Monument. Since the current Proposed Action is to expand the 1989 GMP policies onto the new Park lands, our concerns regarding bighorn sheep within the Park remain. Our concerns are repeated in our comments of October 5, 1988, on the DEIS for the Monuments Boundary Adjustment, which are also incorporated here by reference. These letters are attached for your information.

Specific comments:

CDFG6

Page 36, Regional Planning and Cooperation.

The Proposed Action should include compliance with the MOU signed between the NPS and the Department of Fish and Game regarding cooperation and coordination between our two agencies in relation to fish and wildlife issues. If the Proposed Action will not achieve compliance with this MOU, the DEIS should state how and why.

The Proposed Action should include, as a goal, compliance with the "Agreement on Biological Diversity", an MOU signed by NPS, Department of Fish and Game, and other state and federal agencies, on September 19, 1991. In this agreement, the signatory parties agree to make the maintenance and enhancement of biological diversity a preeminent goal in their protection and management policies. Similarly, if compliance with this goal is not going to be achieved as a result of implementing the Proposed Action, the DEIS should discuss why it cannot be achieved.

CDFG7

Page 37, Carrying Capacity.

The statement is made that the implementation of recommendations as called for in this plan will increase the level of protection for fragile or sensitive resources. This is unsubstantiated in the description of the Proposed Action. The only species identified for conservation in the Proposed Action are federally listed or proposed species. Even for these species the Proposed Action only states that the NPS "might limit access" to especially sensitive areas, and that active management programs "might be considered" for state listed species, California Species of Special Concern, and other sensitive species. These statements do not support the notion that the Proposed Action will increase the level of protection for fragile or sensitive resources.

CDFG8

Page 37, Desired Future Conditions.

No desired future conditions are given for habitats. All of the desired future conditions are described in terms of visitor use. Desired future conditions for sensitive resources and habitats should be developed and included which describe the biological function of the habitat type.

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CDFG3. See response to CDFG1.

We believe that the 50 pages of text in the draft plan devoted to describing the proposed action and the two alternatives is of sufficient detail to accomplish the stated planning objectives and address the range of issues for the management of the Park for the first tier planning document. Alternative 3 is brief because it is the same as Alternative 1 except for stated differences. The full text of Alternative 1 is not repeated.

NPS general management plans represent the first phase of tiered planning for parks and provide the overall management framework under which other detailed plans are developed. The NPS planning process involves several levels of planning that become increasingly more detailed and complementary by agreeing first on why the Park was established and what resource conditions and visitor experiences should exist there, and then by becoming increasingly focused on how those conditions should be achieved. Decisions about site-specific actions are deferred to implementation planning when more detailed site-specific analysis would be done.

CDFG4. We believe the level of detail in the "Affected Environment" and "Environmental Consequences" sections is commensurate with the broad-scale decisions of this plan. According to the regulations and NPS guidelines, the affected environment section of an environmental impact statement is intended only to give the reader a general understanding of the environment that may experience impact if the proposal or alternatives are implemented. This section is not intended to be a complete description of the environment of Death Valley. Data in this section should be commensurate with the importance of the impact. Data in the affected environment section is also supplemented, as directed by regulations, by appendix material and references. For instance, this plan includes lists of private lands, mining claims, water rights, and species of

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special consideration in appendixes. It also references numerous other published sources and incorporates by reference a separate analysis of socioeconomic conditions.

Appendixes included are those that were deemed relevant to the analysis. There are also many references cited in the analysis. This is the normal process for an environmental impact statement.

The “Environmental Consequences” section is structured once again to build upon differences between the “Existing Management and Proposed Alternatives.” The discussion in “Alternative 2” identifies the major effects of continuing existing management actions on primarily the new lands added to the Park in 1994. Continuing the preservation strategies and existing developments that have occurred for many years on the old monument lands were not considered major and have been addressed in previous planning and environmental compliance documents. Therefore, the discussion focuses on the major impact topics and builds from the existing management strategy by identifying differences between the proposed alternatives and no action. The “Environmental Consequences” section is also supported by a socioeconomic analysis done under contract and incorporated by reference.

CDFG5. NEPA regulations call for measures to mitigate adverse impacts, *if not adequately covered by the proposed action or alternatives* (40 CFR 1502.16(h)). The plan covers a legislative change in managing agencies for existing federal lands and their subsequent actions. The proposed action typically protects and enhances the resources over the existing management alternative. The proposed alternative is essentially mitigation for the existing management alternative. Many of the actions proposed would mitigate adverse impacts currently occurring.

CDFG9

Page 47, Actions Considered For Alternatives But Rejected.
The Department believes that additional alternatives which comply with the CDPA and NPS policies are available but which were not considered in the document. A resource protection alternative which emphasizes biological resources over visitor use, and which contains strong language and desired future conditions for those biological resources is one alternative which should be included.

CDFG10

An additional alternative which should be explored is one in which proposed mineral developments will not be allowed unless the development meets all of the regulatory approval standards. According to the description of the Proposed Action, if a proposed mineral development does not meet the regulatory approval standards and no alternative development scenario is feasible, the NPS will seek funding to initiate acquisition of the mineral rights. This treatment of mineral development is the same under the Proposed Action and Alternative 2. The treatment of mineral development under Alternative 3 seems to be the environmentally superior alternative, because areas of the Park with sensitive resources would be identified before mining operations are proposed, and acquisition of the mineral rights could take place prior to submittal of a proposed mineral development. This treatment of mineral development should be strengthened by not allowing any mineral development in those sensitive resource areas prior to acquisition unless the development meets the mission of the Park and all regulatory approval standards. This treatment of mineral development should then be included within the Proposed Action.

CDFG11

NEPA Regulations (40 CFR 1502.14) require that an EIS should include reasonable alternatives not within the jurisdiction of the lead agency. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. An alternative that is outside the scope of what Congress has approved or authorized may be evaluated in an EIS because the EIS may serve as the basis for modifying the Congressional approval in light of NEPA's goals and policies.

CDFG12

Page 56, Proposed Action, General Description.
The description of the Proposed Action is incomplete and does not allow for adequate comparison between alternatives. This alternative seeks to extend existing Park management strategies and NPS mission and policies to the new Park lands. This document should summarize what those existing Park management strategies are. New data on biological resources within the Park have been gathered since the 1989 GMP; these data should have been used to update the plan rather than simply extend it to the new lands.

CDFG13

Page 61, Water Resources.
As water in the desert is critical to the maintenance of natural resources, and often supports unique assemblages of species, the NPS should seek to protect, perpetuate, and restore wherever possible, surface water and groundwater as integral

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components of Park aquatic and terrestrial ecosystems. In addition, the NPS should include a commitment to inventory all water sources, identify the fish, wildlife, and plant resources associated with these water sources, monitor compliance with existing water rights, take actions to ensure compliance with existing water rights, acquire water rights when feasible, and collaborate with water rights holders to restore modified water sources to as natural a system as possible while still providing for valid existing uses. Wherever and whenever possible modified spring sources should be allowed to reoccupy their stream channel for at least 100 yards before being diverted. The priorities for such restoration should be based upon the presence of species assemblages in water sources which could benefit from such restoration.

CDFG14

Page 62, Floodplain and Wetland Areas.
The DEIS should state what type of mitigation measures will be implemented to minimize harm to floodplain and wetland values.

CDFG15

Page 62, Water Developments.
Consistent with the MOU between the NPS and the Department, our two agencies should jointly examine the use of and need for developed water sites by wildlife, and cooperatively develop a program for maintaining or dismantling any developed water sites. Similarly, a program to allow motorized access to maintain or replenish developed water sources should be jointly and cooperatively developed.

CDFG16

Page 64, Biological Environment, Sensitive Species.
Given the mission of the NPS and direction in the CDPA (Sec. 2. (1)) to: "(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes," "(B) perpetuate in their natural state significant and diverse ecosystems of the California desert," and (E) retain and enhance opportunities for scientific research in undisturbed ecosystems," the NPS should strive to protect and perpetuate the natural distribution and abundance of all native species in the same manner it would promote the conservation of federally listed or proposed species. The sentence (emphasis added) "Controlling access to critical habitats or conducting active management programs might be considered that would be similar to activities conducted to perpetuate the natural distribution and abundance of federally listed species" should be modified to "Controlling access to critical habitats or conducting active management programs will be similar to activities conducted to perpetuate the natural distribution and abundance of federally listed species."

CDFG17

The DEIS should identify specific sites where other uses are degrading habitat for sensitive species and describe solutions to be implemented. For example, habitat for the Badwater snail at Badwater is being degraded by visitor use. This situation should be described, and a commitment made to protect snail habitat. If snail habitat will not be protected, the document should explain why it cannot be protected. Least Bell's Vireo (a federal endangered species) habitat has been destroyed at Scotty's Spring in order to upgrade the water supply for Scotty's Castle. The DEIS should

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CDFG6. We agree that a management objective should be included where suggested to address cooperative management of wildlife with other state and federal agencies. Such an objective has been added (see "Introduction/ Management Objectives" section).

We believe that the "Proposed Action" complies with the 1973 amendment to the Memorandum of Understanding between CDF&G and NPS and with the Biodiversity Agreement of 1991.

CDFG7. We disagree. The proposed action proposes to remove burros, manage grazing and mining, protect wilderness (95% of the Park) and protect sensitive species. Alternative 1's Biological Environment / Sensitive Species section elaborates on commitments being made to sensitive species protection at this general management planning level. The Park has worked actively for years to inventory and map species distribution and identify threats to sensitive species. Where threats are identified, the Park uses a variety of management actions to reduce or eliminate the threats. Probably the best example is the Devils Hole pupfish that the Park Service has been aggressively protecting from groundwater overpumping for nearly 30 years. The Park Service has a preservation mandate and both the agency and the Park have an excellent track record of protecting the resources.

CDFG8. Resource conditions are addressed as one element of the "Desired Future Conditions" in terms of the tolerance for resource degradation for each management area, such as wilderness and natural areas. We agree that sensitive habitats should be specifically highlighted and higher protection standards should be given. Desired future condition statements have been added to address this concern.

CDFG9. We believe the "Proposed Action" is a strong resource preservation approach. It does not propose to expand visitor use developments, but does provide protection for 95% of the

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describe this situation and describe mitigation measures to restore the habitat. If it cannot be restored, the DEIS should explain why it cannot be restored.

The DEIS should describe the existing biological resources program at the Park. Were there activities identified in the 1989 GMP that have never been implemented because of lack of funding, or other reasons? Does the Proposed Action commit to implementing those actions?

CDFG18

The DEIS is deficient in disclosing the activities proposed which will contribute to the recovery of listed species such as the desert tortoise. The DEIS should list the threats, predominant occurrences, effects, and studies needed, and list those actions specific to mitigating those threats. Threats could include: urbanization, disease, construction, OHVs, roads and highways, agriculture, utility corridors, fire, livestock grazing, landfills and transfer stations, subsidized predation, mineral development, non-OHV recreation, invasive weeds, garbage and litter, vandalism, handling and manipulation, drought, and commercial use. The NPS should bring together a Task Group of responsible agencies and tortoise specialists to devise specific management prescriptions. The actions proposed should include, but are not limited to, the following additional specific measures to eliminate or reduce threats.

- ☐ Encourage tortoise disease research within the Park relative to management.
- ☐ Educate the public about not releasing captive tortoises.
- ☐ Authorized tortoise handlers should use sterile techniques to avoid disease spreading.
- ☐ Increase ranger patrols to enforce tortoise protective measures.
- ☐ Work with user groups to establish education brochures and other tools.
- ☐ Any fire suppression activities should include protective measures for tortoises such as 1) a mix of aerial attack with fire retardant, hand tools for firebreak and attack engines limited to public roads and designated open routes, 2) use of earth moving equipment or vehicle travel off public roads and designated open routes would only be allowed where needed to protect life and property, 3) post suppression mitigation includes rehabilitation of firebreaks and other ground disturbances, 4) fire crews unfamiliar with tortoise protection should receive appropriate education.
- ☐ Allotment Management Plans should be designed to minimize adverse impacts to tortoises. Forage allocations/utilization should be based upon best available scientific information to provide adequate residual forage for tortoises. Adequate monitoring is required to ensure compliance with grazing strategies in

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park in a wilderness setting, proposes to remove exotic species such as the burro, proposes to manage grazing and management situation for mineral management, which is mining, and proposes to protect sensitive species.

The proposed action and “Alternative 3” build on the existing management. All three alternatives provide that mineral development activities would only be allowed when they meet the approval standards of NPS regulations at 36 CFR 9A. Sensitive resources would be evaluated whenever a proposed mineral development activity is proposed.

“Alternative 3” differs in that it proposes a parkwide sensitive resource analysis in an effort to identify areas of the Park where mining may be incompatible. That approach relies on potential development scenarios though, rather than actual proposals. Regardless of the approach, if the proposed mineral operations could not be mitigated to meet NPS approval standards, the proposed plan would be denied. Acquisition funding would be sought if no feasible alternative mineral development schemes were available.

CDFG11. See response to CDFG1.

We do not believe that creating alternatives for the management of Death Valley that conflict with legislative direction for the Park is consistent with our objective of creating a management plan for the area. If we were to evaluate such an alternative and ultimately select that approach as the desired management, we would be creating a management plan that could not be implemented unless Congress agreed with the change and decided to pass legislation to authorize it.

CDFG12. See response to comment CDFG3.

We feel that the alternatives descriptions are adequate and comparisons can be made among the various alternatives. As stated in response CDFG3, the level of detail provided is

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- the AMPs. The herding of cattle should be minimized, and cattle allowed to disperse throughout the area of use.
- ☐ A raven eradication program should be implemented targeting ravens which are preying upon tortoises in specific areas.
 - ☐ Investigate and eliminate other anthropogenic sources of raven food.
 - ☐ Ensure that refuse containers in residential areas have self-closing lids.
 - ☐ Mineral developments within tortoise habitat should be closely reviewed for potential acquisition (CDPA Sec. 509).
 - ☐ Restoration of mineral developments should strive to reclaim appropriate lands to constitute tortoise habitat as a goal.
 - ☐ Upland game guzzlers in tortoise habitat should be modified to prevent/reduce future tortoise mortality.
 - ☐ Where camping is allowed within tortoise habitat, camping should be allowed only within 100 feet of a designated route.
 - ☐ Invasive weeds such as red-stemmed filaree, rancher's fiddleneck, and several mustard species should not be introduced within tortoise habitat in highway, or other, landscape design.
 - ☐ Create and/or enforce ordinances against illegal dumping,
 - ☐ Implement programs to clean up existing dumps on private and public lands.
 - ☐ Efficient litter removal from various recreation sites and problem areas.
 - ☐ Cross country vehicle travel in tortoise habitat will not be allowed for commercial activities.
 - ☐ Commercial activities that result in ground disturbance or adverse effects would not be allowed in tortoise habitat.
 - ☐ Increase enforcement patrols to discourage purposeful killing or maiming and illegal collection of tortoises. Identify problem areas and determine solutions. Public education should emphasize that tortoises are not to be handled or harmed.
 - ☐ Determine alternatives for disposition of tortoises that have been handled or

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appropriate for an NPS general management plan, which is the first phase of tiered planning. Many other implementation plans identified on page 51 of the 1998 draft plan are in place (some may need updating) or will be prepared to delineate the specific actions needed to carry out the broad management goals of the management plan. New data on resources is constantly being gathered and considered in Park management actions.

CDFG13. The plan clearly states that water and its protection is an important issue. The Death Valley National Park staff will continue its ongoing work to inventory water features and associated biotic resources and will continue developing plans for their protection and restoration (if needed). The 1998 draft plan states on page 67 that inventory and monitoring of the Park's natural resources is important and a comprehensive strategy would be developed through the Park's *Resource Management Plan*.

The text was modified in regards to non-NPS water right holders restoring modified water sources to natural conditions while still allowing for valid existing uses.

The Department of Energy is conducting a water audit parkwide.

The last statement on page 61 of the 1998 draft plan provides for the purchase of water rights. In addition, the discussion on page 84 indicates that the Park Service would seek funding to acquire the majority of private lands and interests based on priorities in the Land Protection Plan (appendix B).

CDFG14. As stated in the draft plan, occupancy and modification of floodplains and wetlands would be avoided wherever possible. If no practicable alternatives exist, mitigation would be implemented. Since the activity that might create this potential situation is unknown at this time, specific mitigation measures cannot be predicted. However, an existing example

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released into the wild. Educate the public regarding risks associated with handling or relocating tortoises.

- ☐ Biological monitors will handle tortoises per "Guidelines for Handling Tortoises During Construction Projects, 1996.
- ☐ Obtain both federal and state permits which are required prior to scientific or other manipulation of tortoises.
- ☐ Tortoises found during drought conditions or summer should be excavated just before sunset and moved to a burrow at night.
- ☐ Timing of scientific studies may need to be modified due to persisting drought conditions.
- ☐ Allotment Management Plans should consider drought conditions in forage allocation to ensure adequate forage production for tortoises.

Page 64, Biological Environment, Sensitive Species, Appendix C, Species of Special Consideration.

This table should be expanded to include the types of habitats the species are found in, threats, actions to minimize threats, and occurrences. The spotted bat, Euderma maculatum, should also be included in the table as it has been recorded in the Park. Other bat species which should be included are Western mastiff bat, Eumops perotis; big and pocketed free-tailed bats, Nyctinomops macrotis and femorosaccus, and fringed myotis, Myotis thysanodes. The California leaf-nosed bat, Macrotus californicus, should be listed as Potential, because it has been documented very close to the southern boundary of the Park. Another bat species which has been identified by the Western Bat Working Group as being threatened is the western red bat, Lasiurus blossevillei; this species should also be included in the table.

Page 66, Disturbed Land Restoration.

This section should be strengthened to state that abandoned mine sites will not be closed unless they are first surveyed for bats and other wildlife by a qualified biologist. If a maternity roost or hibernaculum is found within the mine, the mine will be gated to allow the bats to enter and exit, while precluding human entrance of the mine. The work should be accomplished during the appropriate time of year so as not to disturb the bats. If it is structurally impossible to install a gate, and the mine entrance must be sealed, alternate bat roosting sites should be located and protected.

Page 67, Inventorying and Monitoring.

The DEIS is deficient in describing programs regarding inventory and monitoring. The DEIS contains no commitment to performing necessary inventorying or monitoring. It only commits to consulting with people with expertise, and to develop a

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might be the Salt Creek boardwalk that was constructed to prevent visitor use from destroying wetland habitat. Another example might be restoring native species to riparian areas to replace exotic tamarisk following its removal.

CDFG15. The Park would welcome the assistance and expertise of the Department Fish and Game in examining the use, maintenance, or removal of developed water sites. Motorized access to sites in wilderness would be considered extraordinary and would not be routinely allowed unless unusual circumstances warranted it. These instances would be considered on a case-by-case basis consistent with the Wilderness Act, and nothing in the California Desert Protection Act provides any additional authority. In fact, each water development in wilderness would have to be examined in light of the restrictions in the Wilderness Act on structures and installations.

CDFG16. This is our mission and it is stated as such in the plan. The section on page 64 of the 1998 draft plan is specific to sensitive species.

Protection of all resources is inherent in our regulations and in our daily management activities. Threats to Park resources are routinely identified, management solutions proposed and funding sought. Most of our staff activities are directed at resource preservation, whether it's maintenance, law enforcement, resource management, or interpretation. All of these activities are directed at identifying threats and taking corrective action. Your wording suggestion has been incorporated.

CDFG17. Park management activities that undergo the NEPA planning process do evaluate potential impacts that park management activities have on sensitive species. Through NEPA, strategies for reducing management-related impacts are proposed and evaluated. Impacts are periodically evaluated in resource management plan updates, and restoration activities

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strategy to ensure that regional, local, or national trends are documented and appropriate actions taken. Inventory and monitoring are two extremely important components of any management plan and deserve to be treated separately.

CDFG22

The DEIS is deficient in adequately describing the fish, wildlife, and plant resources present within Park boundaries. In particular, information is not presented regarding the range of aquatic species present within aquatic habitats within the Park, and there is no general description of reptile and amphibian species present nor any distributional information. The document contains only information pertaining to sensitive species. Furthermore, there is no specific description of desert tortoise distribution within the Park. Although it is the intention of the NPS to manage for multiple species and protect habitats for all native species, there are still ongoing activities (grazing, mining, water diversions, fire management, rights of way, visitor services, etc.) which can adversely impact habitats for native species. The DEIS should disclose the species present, their distribution, and status if known. Where information is lacking the commitment to an inventory program should be made, including a time frame and funding requirements. Without this baseline inventory information it will not be possible to properly prioritize land acquisition activities, and manage grazing and other uses without potential detriment to native species.

Park planning should be a dynamic process that does not end with the publication of the GMP. Monitoring and evaluation activities provide information to help determine whether or not programs are meeting the Plan's objectives. It is through this process that corrections and adjustments are made in management activities, the degree of implementation is assessed, and the need for change is determined. In the evaluation stage, monitoring information should be compared with Plan requirements. Differences are a justification for Plan amendments. Monitoring processes should be described for soil productivity, water quality, range utilization, listed species, etc. A monitoring evaluation process should also be disclosed which describes how monitoring information will be compared to Plan requirements, and alternatives for rectifying differences.

CDFG23

The monitoring section should also include a description of how management activities will be monitored. This should include the following as a minimum: 1) activity to be measured, 2) monitoring objective, 3) monitoring technique, 4) expected precision and validity, 5) frequency and reporting period, 6) variation from Plan objectives which will trigger further action, and 7) annual cost. Currently, neither inventory nor monitoring are included in operational costs for Plan implementation.

CDFG24

Page 90, Grazing/Range Management.

This section does not adequately describe how the NPS will manage livestock grazing without adverse impacts to fish, wildlife, and plant resources. The NPS must identify specific resource protection goals which are in compliance with the NPS Organic Act, which stresses protection of natural resources. Developing effective

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by Park staff members are implemented as money and priority setting allows. Evaluation of restoration techniques would also be subject to NEPA review processes.

CDFG18. Tables C-3 and C-4 in appendix C of the plan do identify some known threats to sensitive species. For listed species with habitat in the Park, specific actions are being pursued. A conservation plan for the Eureka Dunes area is being prepared in consultation with the U.S. Fish and Wildlife Service that will provide proper management and protections for the sensitive plants in that area. Park staff has actively pursued numerous actions for years to protect the Devils Hole pupfish, including regular fish counts and monitoring of water. The area is fenced and closed to public access. The Park actively seeks to protect the endangered fish from groundwater drawdowns.

Regarding the desert tortoise, no critical habitat is designated within Death Valley National Park. Historical sightings have been rare. In 1998 the Park conducted surveys for desert tortoise and discovered only limited potential parkwide. In Greenwater Valley, suitable habitat was found to occur and some historic use was indicated. These surveys did not discover any animals or signs of recent tortoise activities. Human activities in Greenwater Valley area are very light and road access is very limited. The entire area outside of the limited dirt road access is designated wilderness. If and when additional information of desert tortoise's presence within the Park are found by Park staff or others and it is found that additional protection is warranted, appropriate actions would be taken. Grazing does not occur within desert tortoise habitat in Death Valley National Park.

CDFG19. Habitat was included for listed species, but not all sensitive species. This type of detail should appear in implementation plans rather than the general management plan.

The species table has been updated to reflect the data

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grazing regulations is essential for the restoration of Park ecosystems. The Park superintendent should not merely copy the existing BLM methods and standards, including grazing fees. The contents of the proposed grazing management plans should disclose sufficient information to allow the evaluation of the effects of the proposed management on the affected environment, including listed and sensitive species. The DEIS should state that grazing management plans will be used as instruments to guide the avoidance of unacceptable damage to soil, water quality, vegetation, and sensitive species. These plans should be amended, if required, to include adopted means of resolution and needed mitigation measures. If mitigation is unsuccessful in preventing unacceptable resource damage, the plan should state that livestock grazing will be reduced within problem areas. This section should contain, at minimum, the following standards and guidelines which describe management objectives, and measures which mitigate grazing impacts.

- ☐ The NPS should carefully evaluate the appropriateness of grazing in the Last Chance Allotment and take all legal measures to reduce or eliminate adverse impacts to wildlife and plant resources resulting from grazing activities.
- ☐ Assess impacts on riparian and other sensitive areas within permit boundaries during grazing permit re-evaluations. Require structural and/or non-structural measures to correct deterioration of riparian-dependent or other sensitive resources.
- ☐ Graze areas only when "range ready" .
- ☐ Conduct annual and perennial forage monitoring.
- ☐ Conduct annual utilization checks in key wildlife habitats in grazing areas.
- ☐ Achieve or maintain rangeland in "satisfactory" condition.
- ☐ Grazing Management Plans will display use, improvement, maintenance, and other management data.
- ☐ Use criteria will be established and documented for each unit of each grazing allotment. These criteria will be developed using long-term trend studies and identified limiting factors, and will define permissible grazing levels.
- ☐ The condition of soil and vegetation must be maintained or improved. If they are in satisfactory condition, then they must be maintained in that condition. If they are in a less than satisfactory condition, then allowance must be made for improvement in condition.
- ☐ Locate salt at least one-quarter mile away from riparian or other sensitive areas.

Responses

provided. However, Park staff do not currently have documentation that indicates that spotted bats, western mastiff bats, or free tailed bats are present in the Park.

- CDFG20. Environmental assessments would be conducted prior to mine closures. These assessments would include biological surveys and mitigation recommendations.
- CDFG21. The National Park Service recognizes, as stated on page 67 of the 1998 draft plan, the importance of an inventorying and monitoring program. Aspects of such a program are in place and operational, such as air quality monitoring and monitoring of the water level and fish at Devils Hole. A national NPS program and funding will be available in 2000 or 2001, and all NPS units would be allowed to submit proposals requesting funding.
- CDFG22. See response to comment CDFG4. The purpose of the "Affected Environment" section is to describe those features that will be affected by the proposed action. We feel we have adequately described those features.
- CDFG23. Comment noted.
- CDFG24. The National Park Service inherited grazing as an existing federal activity and the California Desert Protection Act specifically allows grazing to continue at no more than the 1994 level. The same protections that were required by the state and federal governments will be provided under NPS management. The proposed action calls for the National Park Service to develop a grazing management plan that will, at minimum, follow existing federal and state guidelines (e.g. Clean Water, Cultural Resource Protection, and Endangered Species Laws) and the need for additional protections to be provided to the Park's natural and cultural resources in compliance with NPS policies and regulations.

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- ☐ Current desert BLM management regarding above ground forage biomass requires termination of grazing when forage biomass falls below 350 lbs/acre. The NPS should conduct a thorough literature search regarding grazing impacts on desert tortoises, and promote and support research, if required, to determine desirable forage utilization standards which are not detrimental to tortoise recovery in those areas in which conflicts between grazing and tortoises could occur.

CDFG25

Page 91, Plan Implementation.

This section does not fully disclose, or identify the levels of funding associated with measures to protect, preserve, or enhance fish, wildlife or plant resources or their habitats. The table should disclose the specific costs of actions to protect resources. The various projects to be implemented with the \$604,000 allocated for site improvements to protect resources should be itemized. Given the direction of the NPS to protect and preserve natural resources, the fact that only burro removal and site improvements totaling \$1,054,000 are proposed for that purpose versus the total proposed cost of \$28,826,000, gives the impression that protection and preservation are not the highest priorities.

This section provides no funding for inventorying or monitoring. Inventory should, at least initially, receive significant funding. Monitoring should require significant annual funding throughout the life of the Plan, and should include sufficient resources to conduct sufficient annual grazing monitoring to document livestock use, range condition, trend analyses, and impacts to sensitive resources.

CDFG26

Page 115, Affected Environment, Guzzlers.

Guzzlers are not only installed to provide water for hunted species. Many bighorn sheep guzzlers have been installed in areas where bighorn sheep are not hunted. Guzzlers have been installed to provide water in areas where the natural water source has been altered by humans so that it is no longer available to wildlife. This section implies that Death Valley's bighorn sheep population has expanded beyond the area's carrying capacity. In fact, bighorn sheep numbers in Death Valley have dropped dramatically (Douglas, 1985, 1986). The statement that a review of guzzler use by Park staff concluded that two of the big game guzzlers received little or no use should be substantiated.

CDFG27

Page 118, Affected Environment, Vegetation and Wildlife.

The DEIS does not mention the threat of brown-headed cowbirds to riparian-dependent bird species within the Park. This issue should be discussed.

CDFG28

Page 119, Animals, Aquatics.

This section should be modified to reflect the fact that much is known about the effects of these aquatic exotic species on native fauna. The aquatic exotic species listed have all been documented to result in adverse impacts to native aquatic fauna.

Responses

CDFG25. Funding for resource management issues is usually allocated on a yearly basis through internal Park programs. Sometimes requests are made for financial assistance from Congress via line item appropriations. Other than the Park's base budget it presently has no funding identified for inventorying and monitoring activities. There is a large probability that all NPS units will receive substantial infusions of money for inventory and monitoring activities beginning in the year 2000. Park staff hope these allocations are forthcoming, and will move aggressively forward with enhanced inventory activities as the funding becomes available. The NPS and Death Valley mission statements on page 29 of the 1998 draft plan clearly state that resource protection is the National Park Service's highest priority.

CDFG26. We agree that guzzlers may be necessary where they have been installed to replace water no longer available to wildlife due to human intervention. We have requested that CDF&G provide us with data indicating that such is the case in Death Valley. Where guzzlers have been installed to artificially increase wildlife populations where water was not present are the areas where the Park Service is proposing to examine for the guzzlers' appropriateness.

The report citing and substantiating NPS conclusions have been included in the "References" section.

CDFG27. Death Valley National Park does not have a cowbird control program but resources staff do recognize that cowbird parasitism affects nesting success of neotropical bird species. Implementation of a cowbird control program at the present time would be premature until adequate surveys are done to identify areas where susceptible host species are present and where cowbird parasitism is problematic.

CDFG28. Text has been changed to reflect your comment.

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Wherever and whenever possible these exotics should either be controlled to a level which eliminates their adverse impacts, or they should be extirpated altogether from Park habitats.

CDFG29

Page 123, Species and Habitats of Special Consideration.
This section is lacking in basic information. It should be expanded to include a discussion of bighorn sheep distribution, abundance, trend, and habitat. A discussion should be included regarding the importance of abandoned mines as habitat for several bat Species of Special Concern such as Townsend's big-eared bat, pallid bat, California leaf-nosed bat, and fringed myotis. Population distribution and abundance for these species should also be discussed. The discussion of riparian-dependent bird species should be expanded to include the 14 priority riparian-dependent species identified by Partners in Flight, including black-headed grosbeak, blue grosbeak, common yellowthroat, song sparrow, Swainson's thrush, warbling vireo, Wilson's warbler, yellow-breasted chat, and yellow warbler.

CDFG30

Page 129, Species Restoration.
The DEIS should identify those species being considered for restoration.

CDFG31

Page 165, Grazing.
This section does not fully disclose the impacts of grazing on the affected environment. The discussion should include current utilization standards, compliance monitoring, results of those utilization standards, range condition and trend information, and disclosure of violations of current allotment plan conditions, if any.

CDFG32

Page 169, Environmental Consequences, Proposed Action.
This section does not adequately disclose the environmental consequences of the Proposed Action. It should be greatly expanded to include, at a minimum, the topics constituting the Proposed Action such as air quality, viewsheds, water resources, sensitive species, introduced species etc. and characterize the likely impacts of the proposed actions on these Park resources.

CDFG33

The statement that as natural water sources are restored, wildlife populations would adjust to more natural conditions should be substantiated. Are wildlife numbers expected to increase or decrease? On what data is this assumption based? At what level are wildlife populations now?

CDFG34

This section should include a discussion of the effects of increasing visitor use on water resources in the Park and the resulting impacts to wildlife populations. Increased visitor use also has an effect on wildlife through increased traffic, increased encroachment into sensitive habitats, additional paved roads, etc. These impacts should all be discussed here.

Responses

CDFG29. Additional information has been included in the plan.

CDFG30. No species are being considered for restoration at this time. This section has been eliminated from the plan.

CDFG31. Grazing impacts are identified in the "Environmental Consequences" section.

Grazing impacts are reduced from the level when Death Valley National Park inherited grazing as an existing federal activity from the Bureau of Land Management. Only one of the four allotments identified within the draft plan is presently authorized for grazing. The small acres within Death Valley National Park of the Eureka Valley and the Lacey-Cactus-McCloud allotments have been retired with no reduction to the ranchers' use-levels on the adjoining BLM allotments. Nevada BLM has suspended the grazing privilege for the Last Chance allotment and Death Valley has done the same. Death Valley has no immediate plans to reissue the Last Chance grazing permit at this time. This is a reduction of 2,249 animal unit months.

Protection and enhancement of natural and cultural resources on the Hunter Mountain allotment remains a goal of the grazing management plan.

CDFG32. The impacts to air quality, viewsheds, water resources, sensitive species, introduced species, etc are identified in the "Environmental Consequences" section where an impact is anticipated. Other than the impacts indicated in the "Environmental Consequences" section, there are no impacts to the resources that you have listed.

Also see response to comment CDFG4.

CDFG33. The "Environmental Consequences" section has been expanded in response to your comment.

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CDFG35

Impacts to sensitive bat populations as a result of allowing mining operations on valid existing claims should be discussed. Under current mining regulations, impacts to wildlife populations are allowed. The Proposed Action does not include any changes in existing mining regulations. Therefore, impacts to wildlife populations could occur as a result of future mining operations. These impacts should be disclosed in this DEIS. Impacts of restoring abandoned mine lands should also be discussed. The Proposed Action does not include language to protect existing bat maternity roosts and hibernating sites, only to consider them in decisions. The impacts of "considering" could result in impacts to bat populations. These impacts should be discussed here.

Impacts to sensitive resources as a result of implementing the Proposed Action could be significant. The Proposed Action does not commit to implementing protective actions for fish, wildlife and plant resources, only that access "might be limited" and management actions "might be taken". The impacts resulting from this type of management, such as those discussed for the Badwater snail and Least Bell's vireo examples given above, should be discussed in this section.

The impact analysis discussed above should be included for all the alternatives in the document.

CDFG36

Page 230, Saline Valley.

One of the parcels near Hunter Canyon is owned by the Department and is managed as an Ecological Reserve. An MOA between the Department and NPS addressing the management of this and adjacent lands could improve the overall management of these lands.

CDFG37

Table C-3, (not paginated), Amphibians, Black Toad.

The black toad has been documented from an artesian spring habitat within Saline Valley within the Park. Actions to protect and enhance this California threatened species should be addressed.

In conclusion, the Department does not believe the GMP provides adequate protection for biological resources as called for in NPS policies, the CDPA, and other guidelines, agreements, etc. The Department also does not believe the DEIS is adequate under NEPA for all the reasons given above. We believe the Plan and accompanying DEIS should be rewritten and recirculated for public review. Department staff is available to meet and discuss our concerns and cooperate in the development of a plan that provides for the conservation of the unique biological resources of Death Valley National Park.

Responses

CDFG34. The "Environmental Consequences" section has been expanded in response to your comment.

CDFG35. Any new mining activity on a valid existing claim must include a plan of operation (36 CFR Part 9.9). Within that plan will be a discussion on potential impact to Park resources, including bat populations.

CDFG36. Comment noted.

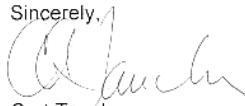
CDFG37. Comment noted. The black toad has been added to table C-3.

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We appreciate the opportunity to comment on this DEIS. If you have any questions, please call Mr. Alan Pickard, Senior Biologist/Supervisor, Habitat Conservation Program, at 407 W. Line Street, Bishop, CA 93514, telephone (760) 872-1126.

Sincerely,



Curt Taucher
Regional Manager

Attachments

cc: Mr. Ray Bransfield, USFWS Ventura
Mr. A. Pickard, Bishop

Responses